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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/710,779

08/02/2004

Tracey R. Thomas

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FITZPATRICK CELLA (AMEX)

30 ROCKEFELLER PLAZA

NEW YORK, NY 10112

EXAMINER

BASIT, ABDUL

ART UNIT

PAPER NUMBER

3694

MAIL DATE

DELIVERY MODE

02/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/710,779	THOMAS ET AL.	
	Examiner	Art Unit	
	ABDUL BASIT	3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/2/04, 8/9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-8 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. According to *In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008), a process/method claim must show either that it is tied to a particular machine or apparatus or that it transforms a particular article to a different state or thing. Claims 1-8 do not conform to the Bilski requirements.

Further, claims 6 and 7 utilize signals as described in the specification in paragraphs 158 and 162. Signals are not statutory subject matter and cannot be claimed.

Appropriate action is requested.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Veter (US Pat. No. 5,716,211) in view of King (US Pat. No. 5,319,542)

Regarding claim 1:

Veter teaches a method of allocating income to a user savings account and to payees and monitoring a consumer's purchasing activity, said method including: receiving user financial information, wherein said financial information includes at least one of user income information related to user income, user income source

information related to user income sources, user debt information related to user debts to payees and user goal information related to user goals; *(see col. 2 and 3 generally)* providing at least one recommendation, wherein said recommendation includes suggestions for minimizing user debt payments and maximizing user savings; *(see col. 2 and 3 generally)*

establishing a payment hierarchy based at least in part on said recommendation, wherein said payment hierarchy includes at least a portion of said user income allocated to said user savings account and a portion of said user income allocated to said user debts; *(see col. 2 and 3 generally)*

acquiring user income; transferring at least a portion of said user income, based at least in part upon said payment hierarchy, to at least one of user savings account and payee; *(see col. 2 and 3 generally)*

establishing and storing budget information; *(see col. 2 and 3 generally)*

King, not Veter, teaches uploading purchase data including a retailer item identifier from a retailer system; accessing a remote processor to standardize purchase data to

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correlate a budgeted item with an actually purchased item; and reconciling said budget information. (*see col. 2, lines 10-65*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with King. Motivation to modify exists because using a budgeting system with real data would provide a better method of allocating and understanding one's budget.

Regarding claim 2:

King, not Veter, teaches that the method of claim 1, wherein said purchase data is standardized by translating a retailer item identifier into a manufacturer item identifier. (*see col. 2, lines 40-56*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with King. Motivation to modify exists because translating retailer information into manufacturing information would allow for understanding pricing for budgeting purposes.

Regarding claim 3:

Veter teaches allocating funds for said budget item. (*see col. 2 generally*)

King, not Veter, teaches that the method of claim 1, wherein establishing and storing said budget information further comprises: accessing a remote processor to select a budget item; receiving a standard identifier for said budget item; storing said standard identifier; (*see col. 2, lines 40-56 and Fig. 1*)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with King. Motivation to modify exists because using a budgeting system with real data would provide a better method of allocating and understanding one's budget.

Regarding claim 4:

King, not Veter, teaches that for the method of claim 3, wherein said budget item is selected by designating one of a product category and a specific product. (*see col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with King, because common knowledge indicates that an item can be designated in a product category.

Regarding claim 5:

King, not Veter, teaches or suggest that for the method of claim 3, wherein said standard identifier is one of a retailer ID and a manufacturer item identifier. (*see col. 2, lines 40-56 and Fig. 1*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with King, because common knowledge indicates that an item can be designated in a product category.

Regarding claim 6:

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Veter teaches that for the method of claim 1, wherein uploading purchase data comprises using a device which includes a smart-chip. (*see col. 4, lines 30-45*)

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Veter (US Pat. No. 5,716,211) in view of Hardgrave (US Pat. No. 6,010,239)

Regarding claim 7:

Hardgrave, not Veter, teaches that for the method of claim 6, wherein said device comprises one of a smartcard and a transponder. (*see col. 5, lines 29-46*)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with Hardgrave, because transponders/smartcards are common methods of transferring information.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Veter (US Pat. No. 5,716,211) in view of Foladare (US Pat. No. 5,914,472)

Regarding claim 8:

Foladare, not Veter, teaches that for the method of claim 1, further comprising alerting at least one of a consumer and a third-party when a budget reconciliation determines that one of over-spending or under-spending has occurred. (*see abstract, and col. 2, lines 15-55*). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Veter with Foladare. Motivation to modify exists because preventing budget issues allows for lower fees and charges for customers and merchants.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ABDUL BASIT whose telephone number is 571-272-5506. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ab

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694